

Department of Veterans Affairs

§21.5132

PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

§21.5130 Payments; educational assistance allowance.

VA will apply the following sections in administering benefits payable under 38 U.S.C. Chapter 32:

(a) Section 21.4131—Commencing dates (except paragraph (d)).

(b) Section 21.4135—Discontinuance dates.

(c) Section 21.4138 (except paragraph (b))—Certifications and release of payments.

(d) Section 21.4146—Assignments of benefits prohibited.

(Authority: 38 U.S.C. 3241(a))

(e) Section 21.4136(k) (except paragraph (k)(3))—Mitigating circumstances.

(Authority: 38 U.S.C. 3241(a), 3680(a))

[45 FR 31, Jan. 2, 1980, as amended at 46 FR 32024, June 19, 1981; 53 FR 617, Jan. 11, 1988; 55 FR 31582, Aug. 3, 1990; 57 FR 38612, Aug. 26, 1992; 61 FR 29030, June 7, 1996; 63 FR 35836, July 1, 1998; 64 FR 23772, May 4, 1999; 65 FR 5786, Feb. 7, 2000]

§21.5131 Educational assistance allowance.

(a) *General.* Statements in this section concerning payments of educational assistance allowance assume that the veteran or servicemember:

(1) Is eligible for educational assistance under 38 U.S.C. chapter 32;

(2) Has remaining entitlement; and

(3) Has not passed the 10-year delimiting date and any applicable extension to that date.

(Authority: 38 U.S.C. 3241)

(b) *Payment of educational assistance allowance for pursuit of programs of education and other courses.* (1) VA will pay educational assistance allowance at the rate specified in §21.5136 or §21.5138 while the veteran or servicemember is pursuing:

(i) An approved program of education;

(ii) A refresher or deficiency course; or

(iii) Special education or training which is necessary to enable the vet-

eran or servicemember to pursue an approved program of education.

(2) Except as provided in paragraph (c) of this section, VA will not pay educational assistance allowance for pursuit of any course unless the course is:

(i) Part of the veteran's or servicemember's program of education;

(ii) A refresher or deficiency course; or

(iii) Special education or training which is necessary to enable the veteran or servicemember to pursue an approved program of education.

(3) VA may withhold a payment until it receives verification or certification of the veteran's or servicemember's continued enrollment and adjusts accordingly the veteran's or servicemember's account.

(Authority: 38 U.S.C. 3241)

(c) *Payment for taking a licensing or certification test.* VA will pay educational assistance allowance to an eligible veteran or servicemember who takes an approved licensing or certification test and applies, in accordance with the provisions of §21.1030(b), for that assistance. VA will not pay educational assistance for a licensing or certification test that neither a State approving agency nor VA has approved.

(Authority: 38 U.S.C. 3689)

[72 FR 16978, Apr. 5, 2007]

§21.5132 Criteria used in determining benefit payments.

(a) *Training time.* The amount of benefit payment to an individual in all types of training except cooperative training, correspondence training and apprenticeship and other on-job training depends on whether VA determines that the individual is a full-time student, three-quarter-time student, half-time student or one-quarter-time student.

(Authority: 38 U.S.C. 3241, 3688; Pub. L. 99-576, Pub. L. 100-689)

(b) *Contributions.* The amount of benefit payment to an individual also depends on:

(1) The amount the individual has contributed to the fund.

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(2) The amount the Secretary of Defense has contributed to the fund for the individual.

(Authority: 38 U.S.C. 3231)

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 48 FR 3369, Jan. 25, 1983; 52 FR 3429, Feb. 4, 1987; 53 FR 34498, Sept. 7, 1988; 55 FR 31582, Aug. 3, 1990; 61 FR 29030, June 7, 1996]

§ 21.5133 Certifications and release of payments.

A veteran or servicemember must be pursuing a program of education in order to receive payment of educational assistance allowance under 38 U.S.C. chapter 32. To ensure that this is the case, the provisions of this section must be met when a veteran or servicemember is seeking such payment.

(a) *General.* VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship, other on-job training, or a correspondence course; one seeking reimbursement for taking an approved licensing or certification test; or one who qualifies for an advance payment) only after:

(1) The educational institution has certified his or her enrollment as provided in § 21.5200(d) of this part; and

(2) VA has received from the individual a verification of the enrollment. Generally, this verification will be required monthly, resulting in monthly payments.

(b) *Apprenticeship and other on-job training.* VA will pay educational assistance to a veteran pursuing a program of apprenticeship or other on-job training only after—

(1) The training establishment has certified his or her enrollment in the training program as provided in § 21.5200(d); and

(2) VA has received from the veteran and the training establishment a certification of hours worked. Generally, this certification will be required monthly, resulting in monthly payments.

(c) *Correspondence training.* VA will pay educational assistance to a veteran or servicemember who is pursuing a correspondence course or the cor-

respondence portion of a combined correspondence-residence course only after—

(1) The educational institution has certified his or her enrollment;

(2) VA has received from the veteran or servicemember a certification as to the number of lessons completed and serviced by the educational institution; and

(3) VA has received from the educational institution a certification or an endorsement on the veteran's or servicemember's certificate, as to the number of lessons completed by the veteran or servicemember and serviced by the educational institution. Generally, this certification will be required quarterly, resulting in quarterly payments.

(38 U.S.C. 3680(g), 3689)

(Approved by the Office of Management and Budget under control number 2900-0465)

[57 FR 38612, Aug. 26, 1992, as amended at 72 FR 16978, Apr. 5, 2007]

§ 21.5134 Restrictions on paying benefits to servicepersons.

The Department of Veterans Affairs may not pay benefits to a serviceperson (other than one enrolled in a course, courses or a program of education leading to a secondary school diploma or an equivalency certificate) unless he or she:

(a) Has completed 3 months of contributions to the fund or has made a lump-sum payment which is the equivalent of at least 3 months of contributions to the fund;

(b) Has agreed either to have a monthly deduction from his or her military pay, or has made a lump-sum contribution to the fund, or both, so that the 12 months participation requirement of § 21.5052(a) of this part will be met; and

(c) Is serving on active duty in an enlistment period subsequent to the initial period of active duty defined in § 21.5040(b)(3) of this part.

(Authority: 38 U.S.C. 3221, 3231, Pub. L. 94-502)

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 54 FR 49977, Dec. 4, 1989]